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EXAMINER

ROST, ANDREW J

ART UNIT PAPER NUMBER

3751

DATE MAILED: 02/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/802,439

Applicant(s)

MORRISON, WILLIAM

Examiner

Andrew J. Rost

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3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 08/16/2005
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. This action is in response to the amendment filed 12/08/2005. Claims 1-6, 9, 16-18, 21, and 26-32 have been amended. No claims have been canceled. Claims 33 and 34 have been newly added. Presently, claims 1-34 are pending.

#### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-3, 8-17, and 33-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Hajny et al. (5,295,562).

Regarding claim 1, Hajny et al. disclose an actuator (10) for a valve with a gear assembly (power transmission 16), a motor (14), biasing mechanism (spring assembly 31, not shown) that returns the valve stem to a closed position in a rapid manner (in excess of 6000 RPMs (col. 4, lines 50-55)), and a brake mechanism (centrifugal brake 12) mounted on the drive shaft of the motor and will slow the attainable velocity of the actuator when the biasing member is in operation (Column 4, lines 50-60) and the brake will slow the return of the valve stem to a closed position.

In regards to claim 2, Hajny et al. disclose the biasing mechanism is a spring assembly (31, col. 4, lines 15-20).

In regards to claims 3 and 8, Hajny et al. disclose a brake means of a centrifugal brake that uses friction and only interacts with brake plate (37) at sufficient rotational speeds (Column 4-5, lines 67-2).

Regarding claim 9, Hajny et al. disclose an actuator assembly (10) for a valve with a gear assembly (power transmission 16), a motor (14), biasing mechanism (spring assembly 31, not shown) and a brake mechanism (centrifugal brake 12) mounted on the drive shaft of the motor and will slow the attainable velocity of the actuator when the biasing member is in operation (Column 4, lines 50-60) and the brake will slow the return of the valve stem to a closed position. Hajny et al. disclose that the brake can be adjusted in many ways to alter the braking effect or to change the rotational velocity required to initiate braking (col. 6, line 7-24), this changing of the braking changes the threshold rotation and limits the rotation of the output shaft of the motor to any desired value.

In regards to claims 10-13, Hajny et al. disclose the use of a biasing mechanism to return a valve to either completely opened or completely closed position (col. 1, lines 54-56) with the biasing mechanism working in the opposite direction of the motor driving direction.

In regards to claim 14, Hajny et al. disclose the biasing mechanism is a spring assembly (31, col. 4, lines 15-20).

In regards to claim 15, Hajny et al. disclose a motor having a motor housing (sidewall and top, brake plate 37 in Figure 1).

In regards to claim 16, Hajny et al. disclose a centrifugal brake has flex members (48) that as the rotational speed is increased to a sufficient speed will cause flex members to bend toward the friction surface of the motor housing (Figure 4) causing the centrifugal brake to frictionally engage the motor housing (Column 5, lines 54-67).

In regards to claim 17, Hajny et al. disclose the centrifugal brake mounted on the drive shaft of the motor and radially secured and centered on the shaft (Figure 2).

In regards to claim 33, Hajny et al. disclose the brake can be adjusted to alter the braking effect (col. 6, lines 7-8), this altering of the braking effect changes the closing time of the valve so time required to close can be increased with alterations to the brake.

In regards to claim 34, Hajny et al. disclose that the brake can be adjusted in many ways to alter the braking effect or to change the rotational velocity required to initiate braking (col. 6, line 7-24), this changing of the braking changes the threshold rotation and limits the rotation of the output shaft of the motor to any desired value.

4. Claims 1, 2 and 4 rejected under 35 U.S.C. 102(b) as being anticipated by Weiss et al. (6,097,123).

Regarding claim 1, Weiss et al. disclose an actuator (10) with a motor (22), biasing means (coiled spring 20) that returns the valve stem to a closed position in a

rapid manner and a brake through a control apparatus (34) that will slow the return of the valve stem to a closed position.

In regards to claim 2, Weiss et al. disclose the biasing mechanism to be a coiled spring (20).

In regards to claim 4, Weiss et al. disclose the apparatus comprises a stationary ring of conductive material with a magnet and as the magnet moves eddy currents are produced in the stationary ring resulting in impedance to the movement of the transmission (Column 2, lines 19-27).

5. Claims 1-3, and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Persons (2,052,987).

Regarding claim 1, Persons discloses an actuator with a gear assembly (26), a motor (36) with the housing being defined by frame (18), a biasing mechanism (spring 39) that returns the valve stem to a closed position in a rapid manner, and a brake mechanism (friction brake in drum 41) mounted on the drive shaft of the motor and will retard the speed of the device (Column 2-3, lines 50-7).

In regards to claim 2, Persons discloses the biasing mechanism is a spring (39).

In regards to claim 3, Persons discloses brake means that uses the interaction between friction blocks (44) and drum (41) (Column 2-3, lines 50-7).

In regards to claim 8, Persons discloses a brake that interacts with a sidewall of the drum after a certain speed is reached.

6. Claims 1-3, 8-25, 27-30, and 33-34 are rejected under 35 U.S.C. 102(e) as being anticipated by Min (US 2005/0092950).

Regarding to claim 1, Min discloses a motor brake structure used for opening and closing a valve structure with the actuator assembly having a motor (10), a biasing mechanism (resilient spring 36) for driving the valve stem in a direction opposite to the motor driving direction and a brake (50) that increases the time required for the closing of the valve by the biasing mechanism.

In regards to claim 2, Min discloses a biasing mechanism of a resilient spring (36).

In regards to claims 3 and 8, Min discloses the brake uses friction and contacts a sidewall of the motor housing when a predetermined rotational velocity is reached (paragraph 0060).

Regarding claim 9, Min discloses a motor brake structure used for opening and closing a valve structure in a pipe (31) with the actuator assembly having a motor (10), a biasing mechanism (resilient spring 36) for driving the valve stem in a direction opposite to the motor driving direction and a brake (50) that increases the time required for the closing of the valve by the biasing mechanism. The rotational velocity of the motor shaft is limited by the brake and the brake can be altered to adjust the rotation speed of the motor (paragraph 0063).

In regards to claims 10-13, Min discloses that the motor can be run in either a forward or reverse direction with the biasing mechanism working in the opposite

direction to the motor driving direction depending on the orientation of the valve in the pipe (paragraph 0064).

In regards to claim 14, Min discloses the biasing structure is a resilient spring (36).

In regards to claim 15, Min discloses the motor has a motor housing (12).

In regards to claim 16, Min discloses the brake is of a flexible material and moves outwardly to engage a portion of the motor housing (paragraph 0050).

In regards to claim 17, Min discloses the output shaft of the motor (56) is radially centered and flexible material of the brake is secured to the shaft (Figure 2).

In regards to claims 18-20, Min discloses the brake has a structure of a straight piece (512) with curved portions (513) extending from the ends of the straight piece with thickened portions (514) at the end of the curved portions with the thickened portions contacting the housing under a predetermined force (Figures 6, 7).

Regarding claim 21, Min discloses an actuator for a valve that is movable between an open and closed position in a pipe with the actuator having a damping mechanism (brake 50) that limits the return speed and time of the biasing mechanism but does not limit the operation of the motor. The rotational velocity of the motor shaft is limited by the brake and the brake can be altered to adjust the rotation speed of the motor and increases the return time (paragraph 0063).

In regards to claims 22-25, Min discloses the actuator for a valve in a pipe controlling the flow of a fluid and can be configured to handle water systems.



Regarding claims 27 and 28, Min discloses a motor brake structure used for opening and closing a valve structure with the actuator assembly having a motor (10), a biasing mechanism (resilient spring 36) for driving the valve stem in a direction opposite to the motor driving direction and a brake (50) that increases the time required for the closing of the valve by the biasing mechanism. The rotational velocity of the motor shaft is limited by the brake and the brake can be altered to adjust the rotation speed of the motor (paragraph 0063).

Regarding claim 29, Min discloses a method of operating a valve by having a motor to operate a valve in pipe with a first force, returning the valve to its original position by using a biasing mechanism (resilient spring 36) and reducing the speed of return by operating a brake that interacts with a wall of the motor housing, reducing the return force, with the brake limiting the rotational velocity of the return which increases the return time (paragraph 0063).

In regards to claim 30, Min discloses the operation of the valve to fully open and fully closed positions (paragraph 0064).

In regards to claim 33 and 34, Min discloses a brake that increases the time required to return the valve in the direction opposite the motor by limiting the rotational velocity of the motor by frictionally engaging the motor housing after a predetermined threshold has been reached. The time and rotational velocity is adjustable based on the desired output and can be adjusted by adjusting the physical properties of the brake (paragraph 0063).

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7. Claims 1 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Bucher (6,688,438).

Regarding claim 1, Boucher discloses an actuator for an electric motor having a motor (2) that operates a valve stem, a biasing mechanism (resetting spring 3) that closes the valve stem in a rapid movement and a brake (centrifugal brake 6 in conjunction with a gearing 4 and transmission element 5) that slows the speed of the return of the valve element.

In regards to claim 5, Boucher discloses a gearing that has at least one reduction stage between the motor and the transmission element and between the motor and the spring (col. 2, lines 32-36) with the gearing supporting the motor so that the required forces can be obtained on the actuating member (8).

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hajny et al. in view of Pasch et al. (6,021,955).

Hajny et al. disclose an actuator (10) for a valve with a gear assembly (power transmission 16), a motor (14), biasing mechanism (spring assembly 31, not shown)

that returns the valve stem to a closed position in a rapid manner (in excess of 6000 RPMs (col. 4, lines 50-55)) and drives the valve stem in a direction opposite the motor driving direction, and a brake mechanism (centrifugal brake 12) mounted on the drive shaft of the motor and will slow the attainable velocity of the actuator when the biasing member is in operation (Column 4, lines 50-60) and the brake will slow the return of the valve stem to a closed position . Hajny et al. does not disclose using a controller to apply an electrical signal to the motor in order to slow the return speed with a series of electrical pulses. However, Pasch et al. disclose periodically energizing and pulsing the motor for regulating the speed of the damper as the damper moves from a closed position to an open position (Column 10, line 62-67) in order to reduce noise, spare damages and prevent overtravel of the motor (col. 10, lines 29-31). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to pulse the motor of Hajny et al. as taught by Pasch et al. in order to reduce noise, spare damages and prevent overtravel of the motor.

10. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Min in view of Pasch et al.

Min discloses an actuator for a valve that is movable between an open and closed position in a pipe with the actuator having a damping mechanism (brake 50) that limits the return speed and time of the biasing mechanism but does not limit the operation of the motor. The rotational velocity of the motor shaft is limited by the brake and the brake can be altered to adjust the rotation speed of the motor and increases the

return time (paragraph 0063). Min does not disclose the use of a thermostat to send control signals to the actuator. However, Pasch et al. disclose that motors in heating and cooling systems respond to a control arrangement which sends a signal corresponding to a thermostat (col. 1, lines 49-52). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to control the actuator of Min with a thermostat as taught by Pasch et al. in order to control a fluid flow in a temperature regulated system.

11. Claims 31 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Min.

Min discloses the structure of a motor assembly having a motor housing (12) having an inside surface that is acted upon by a brake (50) in order to slow the return speed of a biasing mechanism (Figure 7). Min does not disclose replacing an old motor without a brake with a motor having a brake. However, it would have been obvious to one of ordinary skill in the art to replace a motor without a brake with a motor having a brake in order to better control the return speed of the valve and to prevent rebounding of the valve closure.

12. Claims 21-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Persons.

Regarding claims 21, Persons discloses a valve having a first position (opened) and second position (closed), an actuator assembly proximate the valve and damping

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means (friction blocks in drum 41) that limit the speed of the valve when moving from the opened position to the closed position (Column 2-3, lines 50-7). Persons does not disclose the valve moving to a closed position in 4 seconds or more. However, a person of ordinary skill in the art would increase the time required to close the valve in order to prevent rebounding of the valve member.

In regards to claims 22-25, Persons, as modified above, discloses that the valve (1) contains a fluid passageway that can be configured to handle water systems.

Regarding claims 29 and 30, Persons, as modified above, discloses the operation of a valve by using a first force, supplied by the motor, to open the valve and then using a second force, supplied by the spring bias, to close the valve with the interaction of the friction blocks on the drum to slow the closing speed (Column 3, lines 3-7).

### ***Response to Arguments***

13. Applicant's argument on page 16, second full paragraph, is persuasive in regards to a lack of motivation to combine references. The Bellinger reference directed to a vehicle braking system has been withdrawn.

14. Applicant's argument on page 10, first paragraph, is not persuasive. While it is true that Hajny et al. do not explicitly mention using the actuator for a water valve, however, using the actuator on a particular valve is an intended use of the device. Since there is no structure on Hajny et al.'s reference that could prevent the using of

Hajny et al.'s device on a water valve, the feature of using the actuator with a water valve is merely an intended use of the device.

### ***Conclusion***

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Baumann (4,613,798) discloses an electric-powered spring-return actuating device that has an operating speed of 72 rpm.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew J. Rost whose telephone number is 571-272-

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2711. The examiner can normally be reached on 7:30-5 M-Th and 7:30-5 every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on 571-272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Andrew J Rost  
Examiner  
Art Unit 3751



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